

PIEDMONT PLANNING COMMISSION

Special and Regular Meeting Minutes for Tuesday, November 13, 2012

A Special and Regular Session of the Piedmont Planning Commission was held November 13, 2012, in the City Hall Council Chambers at 120 Vista Avenue. In accordance with Government Code Section 54954.2(a) the agenda for this meeting was posted for public inspection on October 29, 2012.

OPEN HOUSE

The City Planner announced that the purpose of this special session is to hold an "open house" question and answer forum for residents to review and comment on the City's draft Complete Streets Policy. The Metropolitan Transportation Commission and the Alameda County Transportation Commission are requiring every city within their jurisdiction to adopt a *Complete Streets Policy* by January 31, 2013, in order to continue to be eligible for various types of transportation funds. The purpose of such policies is to promote the design of streets that are safe and convenient for drivers, pedestrians of all ages, people with disabilities, bicyclists and transit riders. Immediately following this special "open house" session, the Planning Commission will develop a recommendation regarding the policy and forward said recommendation to the City Council for consideration on November 19th.

Eight residents attended the "open house" session to receive and review handout materials entitled *Complete Streets: Fundamentals* and *Complete Streets: Policy Basics* as well as discuss the issues directly with the City's Transportation Consultant Niko Letunic and the City Planner.

CALL TO ORDER

Chairman Chase called the Regular Session to order at 5:00 p.m.

ROLL CALL

Present: Commissioners Phillip Chase, Michael Henn, Jim Kellogg, Tom Zhang and Alternate Commissioner Susan Ode

Absent: Commissioner Melanie Robertson (excused)

Staff: City Planner Kate Black, Assistant Planner Kevin Jackson, Planning Technicians Sylvia Toruno, Jennifer Feeley and Janet Chang and Recording Secretary Chris Harbert

City Council Liaison: Councilmember Robert McBain

CONSENT CALENDAR

The following Resolutions were approved under one vote by the Commission:

Design Review 132 Monticello Avenue

Resolution 300-DR-12

WHEREAS, Mr. Jon Elliott and Ms. Leesy Taggart are requesting permission to make various hardscape modifications and demolish an existing detached 1-car garage and construct a detached 2-car garage in a similar location at the southeast corner of the property located at 132 Monticello Avenue, Piedmont, California, which construction requires design review; and

WHEREAS, after reviewing the application, plans and any and all testimony and documentation submitted in connection with such

application, and after having visited subject property, the Piedmont Planning Commission finds that the project is categorically exempt under the California Environmental Quality Act, pursuant to Section 15301, Class 1(e) and the proposal conforms with the criteria and standards of Section 17.20.9 of the Piedmont City Code:

1. The exterior design elements (including but not limited to height, bulk, area openings, breaks in the façade, line and pitch of the roof, materials, arrangements of structures on the parcel, and concealment of mechanical and electrical equipment) are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development in that: The materials are consistent with the existing house. The 2-car garage proposed is aesthetically pleasing with the break in materials on walls.
2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because: The new garage is practically in the same location as the existing. New garage allows owner to park inside, removing cars from neighbor's immediate view.
3. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress because: The proposed garage is in the same location as the existing and has the same generous back out space so it will not affect traffic flow, safety, etc.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Mr. Elliott and Ms. Taggart for construction at 132 Monticello Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Construction Management Plan.** The Property Owner shall develop a comprehensive Construction Management Plan. The Construction Management Plan shall address noise, vibrations, traffic control, parking, debris removal, dust control, sanitary facilities, and other potential construction impacts, as well as other details involving the means and methods of completing the Project, including the construction route. The City Building Official has the authority to require modifications and amendments to the Construction Management Plan as deemed necessary throughout the course of the Project and until the final issuance of a Certificate of Occupancy.

2. **Construction Completion Schedule.** Work on the Project, once begun, shall be promptly executed with continuous good faith and reasonable progress. Since timely completion of this Project is of the essence, the Property Owner shall submit for approval a Construction Completion Schedule, which will specify, in detail, the duration and percentage complete of each phase (benchmark).

- a. The Construction Completion Schedule with associated construction values for each benchmark shall set forth completion dates for the following benchmarks:

- i. Completion of Excavation;
- ii. Completion of Retaining Walls;
- iii. Completion of Foundation;
- iv. Completion of Rough Framing;
- v. Completion of Electrical;
- vi. Completion of Plumbing;
- vii. Completion of Mechanical;
- viii. Completion of Fire Sprinklers;
- ix. Completion of Home;
- x. Completion of Hardscaping and Landscaping; and
- xi. any further construction benchmarks and conditions of occupancy as may be determined by the Director of Public Works.

b. Before the Project begins, the Director of Public Works shall make a determination as to the reasonableness of the proposed completion dates applicable to the Project, and that determination shall constitute the "Approved Schedule" and be binding on the Property Owner. The City may, at the Property Owner's sole cost, engage the services of a consultant to review the Property Owner's proposed Construction Completion Schedule and, to the extent the period allocated for any work appears unjustifiable, recommend to the Director of Public Works a reasonable completion date for any benchmark.

c. If the work for any specific benchmark has not been completed within 90 days after the completion date set forth in the Approved Schedule, and the delay in completion has not been caused by force majeure, the Director of Public Works has the option at any time thereafter to make a claim against the Property Owner's Performance Security, if one is required, *if one is required*, in order to complete the benchmark.

3. **C&D Compliance.** Compliance with Chapter 9 Article III of the Municipal Code, which governs the recycling of construction and demolition debris, is required for all phases of this project.

4. **Defense of Legal Challenges.** If there is a third party administrative, legal or equitable action challenging the project approvals, including CEQA issues, the Property Owner shall defend and indemnify the City against any liability, fees and costs arising out of the defense, including the costs of City's own counsel. If such an action is filed, the Property Owner and City shall then enter into an agreement regarding selection of counsel and other provisions related to the defense. For this purpose, "City" includes the City and its elected and appointed officials, agents, officers and employees.

RESOLVED FURTHER, that the approval of the Planning Commission/City Council and any conditions of that approval shall not extend to any particulars set forth in the documents submitted for the project which are inconsistent with or in violation of any applicable law, including but not limited to Chapters 5 and 17 of the City Code, nor does the approval extend to matters not set forth, or inadequately represented, in submitted documents (whether or not consistent with

applicable law). The City reserves the right to require compliance with applicable laws and to attach conditions after initial approval is given, if noncompliance is discovered or additional conditions are considered necessary and appropriate in light of Commission/Council findings.

**Design Review
124 Lexford Road**

Resolution 302-DR-12

WHEREAS, Mr. Tim Kahn and Ms. Anne Adams are requesting permission to construct a new detached, split-level accessory structure northwest of the house that includes 575 sq. ft. of habitable space for a new gym and half-bath, a 221 sq. ft. 1-car carport, and a roof deck atop the gym; make other nearby site improvements including fence modifications, a relocated tennis court backboard, new exterior lighting, a new air-conditioning unit in the north side yard, and hardscape and landscape changes located at 124 Lexford Road, Piedmont, California, which construction requires design review; and

WHEREAS, after reviewing the application, plans and any and all testimony and documentation submitted in connection with such application, and after having visited subject property, the Piedmont Planning Commission finds that the project is categorically exempt under the California Environmental Quality Act, pursuant to Section 15301, Class 1(e) and the proposal conforms with the criteria and standards of Section 17.20.9 of the Piedmont City Code:

1. The exterior design elements are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development. These elements include but are not limited to: height, bulk, area openings, breaks in the façade, line and pitch of the roof, materials, arrangements of structures on the parcel, and concealment of mechanical and electrical equipment. The distance between the proposed new multi-level structure and adjacent residences is reasonable and appropriate due to the existing topography and neighborhood development pattern. Upper level setbacks greater than the setbacks required for the lower level have been considered and are/are not necessary to reduce losses of ambient and reflected light: The proposed carport/exercise gym has been designed, in massing, scale and exterior materials to blend into the landscape and be a garden background structure so as not to compete with the existing William Wurster main home adjacent to it. Located at the end of a long curving down-sloped driveway the structure, surrounded by existing trees and hedges along the side property, has been conceived to hunker into the hillside tying it into the existing tennis court fence massing and bear no net visual increase at all to the surrounding neighbors. All window openings have been laid out in a way to have no effect on the neighbors either for sound or light. Roof pitches have been kept to the minimum to shed water so that the overall building massing could be minimized to its utmost. The homeowners understand that the roofscape will be very important for them in terms of their own view so all roof elements will be clad either in FSC harvested wood, dark colored pebbles or planted trellising.

2. The proposed new multi-level structure/expansion has been designed in a way that reasonably minimizes view and light impacts on neighboring properties (as defined in Section 17.2.70), including consideration of the location of the new construction, lowering the height of the addition, expansions within the existing building envelope

(with or without excavation), lower level excavation for new multi-level structures, and/or changing the roof slope or ridge direction: The location of the proposed structure is ideal for its ability to hunker into the landscape creating no effect at all on the surrounding neighbors who are shielded by existing landscape hedges, distance and topographic slope. The structure has been designed to step with the natural grade, with minimal roof massing to keep the envelope as tight to the ground plane as possible.

3. The size and height of the addition is commensurate with the size of the lot (excluding the portions of the lot that cannot reasonably be built on), and is in keeping with the existing neighborhood development pattern: The existing site is large (roughly 2/3 of an acre) and the proposed structure will back up against an existing tennis court so its massing will blend into that of the tennis court fencing. The site on which the structure will be located is presently a paved parking area so there will be little net differential to pervious/impervious area due to this structure's location.

4. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress. In accordance with Sections 17.16.1 and 17.22.1, the existing or proposed on-site parking is/or is not appropriate to the size of the new upper level or new multi-level structure or addition, and additional parking is/is not required to prevent unreasonable short and/or long term parking impacts on the neighborhood. There will be no effect on parking, circulation or ingress/egress proposed by this structure since it is being located on top of what is presently a parking pad fed by an existing driveway.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Mr. Kahn and Ms. Adams for construction at 124 Lexford Road, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Outstanding Building Permits.** The applicants shall work with the Chief Building Official to renew, resolve and/or finalize any outstanding building permits.

2. **Construction Management Plan.** The Property Owner shall develop a comprehensive Construction Management Plan. The Construction Management Plan shall address noise, vibrations, traffic control, parking, debris removal, dust control, sanitary facilities, and other potential construction impacts, as well as other details involving the means and methods of completing the Project, including the construction route. The City Building Official has the authority to require modifications and amendments to the Construction Management Plan as deemed necessary throughout the course of the Project and until the Final Inspection.

3. **Construction Completion Schedule.** Work on the Project, once begun, shall be promptly executed with continuous good faith and reasonable progress. Since timely completion of this Project is of the essence, the Property Owner shall submit for approval a Construction

Completion Schedule, which will specify, in detail, the duration and percentage complete of each phase.

- a. Before the Project begins, the Director of Public Works shall make a determination as to the reasonableness of the proposed completion dates applicable to the Project, and that determination shall constitute the "Approved Schedule" and be binding on the Property Owner. The City may, at the Property Owner's sole cost, engage the services of a consultant to review the Property Owner's proposed Construction Completion Schedule and, to the extent the period allocated for any work appears unjustifiable, recommend to the Director of Public Works a reasonable completion date for any benchmark.
- b. If the work for any specific benchmark has not been completed within 90 days after the completion date set forth in the Approved Schedule, and the delay in completion has not been caused by force majeure, the Director of Public Works has the option at any time thereafter to make a claim against the Property Owner's Performance Security, if one is required, in order to complete the benchmark. The Director of Public Works has the option to refer the application to the Planning Commission for public review.

4. **C&D Compliance.** Compliance with Chapter 9 Article III of the Municipal Code, which governs the recycling of construction and demolition debris, is required for all phases of this project.

5. **CEQA Agreement.** The Applicant shall, pursuant to a form of agreement prepared by the City Attorney and executed by the Applicant, defend, at the Applicant's sole expense, indemnify and hold harmless the City of Piedmont, its elected and appointed officials, agents, officers and employees from and against any claim, demand, loss, liability, action or proceeding relating to, resulting from, or in connection with any determination, whether through its Planning Commission, City Council, City Staff, or otherwise, regarding applicability of the California Environmental Quality Act to the Applicant's Project, including but not limited to any determination that a Categorical Exemption applies or that an Initial Study, a Negative Declaration or an Environmental Impact Report is or is not required for the Project.

6. **Defense of Legal Challenges.** If there is a third party administrative, legal or equitable action challenging the project approvals, including CEQA issues, the Property Owner shall defend and indemnify the City against any liability, fees and costs arising out of the defense, including the costs of City's own counsel. If such an action is filed, the Property Owner and City shall then enter into an agreement regarding selection of counsel and other provisions related to the defense. For this purpose, "City" includes the City and its elected and appointed officials, agents, officers and employees.

RESOLVED FURTHER, that the approval of the Planning Commission/City Council and any conditions of that approval shall not extend to any particulars set forth in the documents submitted for the

project which are inconsistent with or in violation of any applicable law, including but not limited to Chapters 5 and 17 of the City Code, nor does the approval extend to matters not set forth, or inadequately represented, in submitted documents (whether or not consistent with applicable law). The City reserves the right to require compliance with applicable laws and to attach conditions after initial approval is given, if noncompliance is discovered or additional conditions are considered necessary and appropriate in light of Commission/Council findings.

**Variance
1653 Grand Avenue**

Resolution 306-V-12

WHEREAS, Mr. Ross Simkover is requesting permission to demolish an existing conforming 1-car garage and construct a new conforming 1-car garage, including roof and window modifications, in the same location located at 1653 Grand Avenue, Piedmont, California, which construction requires variance; and

WHEREAS, variances from the requirements of Chapter 17 of the Piedmont City Code are necessary in order to construct in the front (west) and left (north) side yard setbacks; and

WHEREAS, after reviewing the application, plans and any and all testimony and documentation submitted in connection with such application, and after having visited subject property, the Piedmont Planning Commission makes the following findings:

1. The project is categorically exempt under the California Environmental Quality Act, pursuant to Section 15301, Class 1(e);
2. The underlying lot and existing improvements present unusual physical circumstances, including but not limited to: Relocation of the garage away from the property line will be undesirable because of its close proximity to the house above. It would require removal of several established trees on the property and the verge along with the removal of light pole. Because of these circumstances, strictly applying the terms of this chapter would keep the property from being used in the same manner as other properties in the zone which conform to the zoning requirements.
3. The variances are compatible with the immediately surrounding neighborhood and the public welfare as follows: The new garage will look similar to neighbors' garages and will not require moving trees, light poles, or altering the front hardscape of the property.
4. Accomplishing the improvement without variance would cause unreasonable hardship in planning, design, or construction as follows: Relocating the garage would require shoring and supporting existing house foundation above in order to prevent slippage.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance application of Mr. Simkover for the above variances at 1653 Grand Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City.

RESOLVED FURTHER, that the approval of the Planning Commission/City Council and any conditions of that approval shall not

extend to any particulars set forth in the documents submitted for the project which are inconsistent with or in violation of any applicable law, including but not limited to Chapters 5 and 17 of the City Code, nor does the approval extend to matters not set forth, or inadequately represented, in submitted documents (whether or not consistent with applicable law). The City reserves the right to require compliance with applicable laws and to attach conditions after initial approval is given, if noncompliance is discovered or additional conditions are considered necessary and appropriate in light of Commission/Council findings.

**Design Review
1653 Grand Avenue**

Resolution 306-DR-12

WHEREAS, Mr. Ross Simkover is requesting permission to demolish an existing conforming 1-car garage and construct a new conforming 1-car garage, including roof and window modifications, in the same location located at 1653 Grand Avenue, Piedmont, California, which construction requires design review; and

WHEREAS, after reviewing the application, plans and any and all testimony and documentation submitted in connection with such application, and after having visited subject property, the Piedmont Planning Commission finds that the proposal conforms with the criteria and standards of Section 17.20.9 of the Piedmont City Code:

1. The exterior design elements (including but not limited to height, bulk, area openings, breaks in the façade, line and pitch of the roof, materials, arrangements of structures on the parcel, and concealment of mechanical and electrical equipment) are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development in that: The new garage will be almost identical to the existing structure. Front roof will be changed to a parapet wall from a shed roof. The footprint will be identical. Proximity of garage to property lines remains the same.
2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because: No change in views, privacy, or access. New garage will now look similar to neighbor garages. The height and width of the new garage will not change.
3. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress because: No impact.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Mr. Simkover for construction at 1653 Grand Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Construction Management Plan.** The Property Owner shall develop a comprehensive Construction Management Plan. The Construction Management Plan shall address noise, vibrations, traffic control, parking, debris removal, dust control, sanitary facilities, and other potential construction impacts, as well as other details involving the means and methods of completing the Project, including the

construction route. The City Building Official has the authority to require modifications and amendments to the Construction Management Plan as deemed necessary throughout the course of the Project and until the final issuance of a Certificate of Occupancy.

2. **Construction Completion Schedule.** Work on the Project, once begun, shall be promptly executed with continuous good faith and reasonable progress. Since timely completion of this Project is of the essence, the Property Owner shall submit for approval a Construction Completion Schedule, which will specify, in detail, the duration and percentage complete of each phase (benchmark).

a. The Construction Completion Schedule with associated construction values for each benchmark shall set forth completion dates for the following benchmarks:

- i. Completion of Excavation;
- ii. Completion of Retaining Walls;
- iii. Completion of Foundation;
- iv. Completion of Rough Framing;
- v. Completion of Electrical;
- vi. Completion of Plumbing;
- vii. Completion of Mechanical;
- viii. Completion of Fire Sprinklers;
- ix. Completion of Hardscaping and Landscaping; and
- x. any further construction benchmarks and conditions of occupancy as may be determined by the Director of Public Works.

b. Before the Project begins, the Director of Public Works shall make a determination as to the reasonableness of the proposed completion dates applicable to the Project, and that determination shall constitute the "Approved Schedule" and be binding on the Property Owner. The City may, at the Property Owner's sole cost, engage the services of a consultant to review the Property Owner's proposed Construction Completion Schedule and, to the extent the period allocated for any work appears unjustifiable, recommend to the Director of Public Works a reasonable completion date for any benchmark.

c. If the work for any specific benchmark has not been completed within 90 days after the completion date set forth in the Approved Schedule, and the delay in completion has not been caused by force majeure, the Director of Public Works has the option at any time thereafter to make a claim against the Property Owner's Performance Security, if one is required, in order to complete the benchmark.

3. **C&D Compliance.** Compliance with Chapter 9 Article III of the Municipal Code, which governs the recycling of construction and demolition debris, is required for all phases of this project.

4. **Defense of Legal Challenges.** If there is a third party administrative, legal or equitable action challenging the project approvals, including CEQA issues, the Property Owner shall defend

and indemnify the City against any liability, fees and costs arising out of the defense, including the costs of City's own counsel. If such an action is filed, the Property Owner and City shall then enter into an agreement regarding selection of counsel and other provisions related to the defense. For this purpose, "City" includes the City and its elected and appointed officials, agents, officers and employees.

5. **Survey.** The applicant shall survey the south and front property lines to verify the setback distances set forth in the plans.

6. **Garage Door.** The applicant shall submit evidence to staff indicating that the proposed material of the garage door is paintable.

RESOLVED FURTHER, that the approval of the Planning Commission/City Council and any conditions of that approval shall not extend to any particulars set forth in the documents submitted for the project which are inconsistent with or in violation of any applicable law, including but not limited to Chapters 5 and 17 of the City Code, nor does the approval extend to matters not set forth, or inadequately represented, in submitted documents (whether or not consistent with applicable law). The City reserves the right to require compliance with applicable laws and to attach conditions after initial approval is given, if noncompliance is discovered or additional conditions are considered necessary and appropriate in light of Commission/Council findings.

**Fence Design Review
10 Huntleigh Road**

Resolution 307-DR-12

WHEREAS, Mr. and Mrs. Peter Read are requesting permission to extend the existing wall and fence at the front of the property by constructing a new section to match along the northwest corner of the property located at 10 Huntleigh Road, Piedmont, California, which construction requires design review; and

WHEREAS, after reviewing the application, plans and any and all testimony and documentation submitted in connection with such application, and after having visited subject property, the Piedmont Planning Commission finds that the project is categorically exempt under the California Environmental Quality Act, pursuant to Section 15301, Class 1(e) and the proposal conforms with the criteria and standards of Section 17.20.9 of the Piedmont City Code:

1. The exterior design elements (including but not limited to height, bulk, area openings, breaks in the façade, line and pitch of the roof, materials, arrangements of structures on the parcel, and concealment of mechanical and electrical equipment) are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development in that: The proposed fence matches previously approved existing fence along opposite side of driveway and adjacent to the west side of the driveway.

2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because: Fence is decorative and will have a minimal impact on adjacent property at #6 Huntleigh, and no impact on other neighboring properties.

3. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress because: Proposed fence will improve safety for vehicles exiting existing driveway by improving visibility looking west up Huntleigh Road. The existing hedge will be pruned back from the sidewalk by about 4 ft. and shortened.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Mr. and Mrs. Read for construction at 10 Huntleigh Road, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following condition:

- **Defense of Legal Challenges.** If there is a third party administrative, legal or equitable action challenging the project approvals, including CEQA issues, the Property Owner shall defend and indemnify the City against any liability, fees and costs arising out of the defense, including the costs of City's own counsel. If such an action is filed, the Property Owner and City shall then enter into an agreement regarding selection of counsel and other provisions related to the defense. For this purpose, "City" includes the City and its elected and appointed officials, agents, officers and employees.

RESOLVED FURTHER, that the approval of the Planning Commission/City Council and any conditions of that approval shall not extend to any particulars set forth in the documents submitted for the project which are inconsistent with or in violation of any applicable law, including but not limited to Chapters 5 and 17 of the City Code, nor does the approval extend to matters not set forth, or inadequately represented, in submitted documents (whether or not consistent with applicable law). The City reserves the right to require compliance with applicable laws and to attach conditions after initial approval is given, if noncompliance is discovered or additional conditions are considered necessary and appropriate in light of Commission/Council findings.

Moved by Kellogg, Seconded by Ode
Ayes: Chase, Henn, Kellogg, Zhang, Ode
Noes: None
Absent: Robertson

PUBLIC FORUM

There were no speakers for the public forum.

APPROVAL OF MINUTES

Resolution 16-PL-12

RESOLVED, that the Planning Commission approves as submitted its meeting minutes of October 8, 2012.

Moved by Zhang, Seconded by Kellogg
Ayes: Chase, Henn, Kellogg, Zhang, Ode
Noes: None
Absent: Robertson

REGULAR CALENDAR

The Commission considered the following items of regular business:

Public Hearing:

Chairman Chase opened a public hearing on the City's proposed

Complete Streets Policy

Complete Streets Policy initially presented earlier tonight during the Commission's Special Session. The City Planner introduced the City's Transportation Consultant on this matter, Niko Letunic, stating that the preparation of the City's *Complete Streets Policy* is the first step toward Piedmont's development of a comprehensive, combined Pedestrian and Bike Plan, with a *safe routes to school* component. She reviewed the preparation, review and approval timeline set forth by the Metropolitan Transportation Commission (MTC) and the Alameda County Transportation Commission (ACTC) for the City's Policy and Plan adoption and encouraged residents to provide input during the Plan preparation and review process. She also briefly reviewed the grant funding sources and the guidelines being developed by the MTC and ACTC for the approval of Plan development as well as future Plan implementation projects.

Niko Letunic narrated a slide presentation outlining the purpose and content of the draft Complete Streets Policy, noting its primary goal of making City streets safer and more convenient for everyone, regardless of transportation mode, age or ability by setting forth broad guidelines for the development of the City's Comprehensive Pedestrian and Bike Plan.

Correspondence was received from: Jennifer Bretan; Kurt Fleischer;

Public testimony was received from:

Nancy Beninati, Andy Keating, Austin Shaw and Tom Gandesbury all voiced strong support for the adoption of the policy and the development of a Pedestrian and Bike Plan for Piedmont. They emphasized that Piedmont is an unique community with neighborhoods and amenities well suited for pedestrian and bike travel and felt that such modes of transportation could be enhanced and made safer with minimal difficulty and expense. During their comments, they requested that the following issues/suggestions be considered during Plan development:

- identify and eliminate the existing "gaps" along many of the City's sidewalk routes;
- mitigate the existing situation wherein many of the City's sidewalks are inaccessible, especially for seniors and the disabled;
- address the fact that Oakland Avenue is a dangerous street for pedestrians and bicyclists to cross;
- address the fact that cars are often parked on sidewalks which block pedestrian/disabled passage but the police will not cite these drivers unless a specific complaint has been received;
- research other cities' pedestrian/bike improvements and traffic calming measures and identify the "do's" and "don'ts" so that mistakes are not repeated in Piedmont's plan;
- coordinate with the City of Oakland to create smooth transitions between Oakland and Piedmont bike and pedestrian routes;

The City Planner concluded the presentation by again encouraging residents and other stakeholders to provide input during policy and plan preparation and review, noting that in addition to contacting City Hall

directly, the Commission will continue to hold public hearings on this matter as well as the likelihood that a weekend or midday town hall meeting will be scheduled to expand resident outreach.

Resolution 17-PL-12

RESOLVED, that the Planning Commission recommends City Council adoption of the proposed *Complete Streets Policy* as the first step in developing a comprehensive Pedestrian and Bike Plan for the City.

Moved by Ode, Seconded by Kellogg

Ayes: Chase, Henn, Kellogg, Zhang, Ode

Noes: None

Absent: Robertson

**Variance and
Design Review
211 Scenic Avenue**

Mr. Jason Chung is requesting variance and design review to expand the three existing rear decks in a northerly direction; replace the lower railings with wood railings and the upper railings with glass panels; make window and door modifications; add exterior lighting. The requested variance is from Section 17.10.4 to allow a structure coverage of 49.3% in lieu of the code permitted maximum of 40%.

Written notice was provided to neighbors. **Three negative response forms** were received. **Correspondence** was received from: Linda Lonay & Mohammad Hooshmand;

Public testimony was received from:

Jason Chung explained the need to repair his decaying decks as part of a general upgrade of his recent purchase of the property (within the last 12 months), his desire to maximize the view potential of the property by expanding the upper level decks and installing a glass railing at the top level and explaining that while a large tree will be trimmed to accommodate the expanded upper level deck, this tree will be retained to help preserve neighbor privacy. Mr. Chung agreed that the deck renovation project essentially requires the complete demolition of the mid and upper level decks and their reconstruction.

Austin Shaw, Project Architect, responded to Commission questions, noting that while the applicant preferred a glass railing on all three decks, due to neighbor concerns the lower and mid level decks will retain a wood railing. The glass panel railing on the upper deck will maximize the view of San Francisco without unduly infringing on neighbor privacy (the deck level is at roof top level of Pala Avenue residences).

Rose Jellison, Linda Lonay and Mohammad Hooshmand, Pala Avenue residents, strongly opposed variance approval, stressing that the applicant's property already exceeds code permitted coverage limits, there is no hardship justifying variance approval, the property has an usable and accessible rear yard that provides outdoor living area (hence enlarged decks are not necessary to provide such an amenity) and expanded deck size will intrude upon the privacy and peace and quiet of Pala Avenue neighbors.

The Commission agreed that there is no justification for variance approval, stating that the property's current 48.5% structure coverage

already exceeds the 40% permitted maximum and there is no physical hardship or unusual circumstance to warrant increasing this coverage since mid and upper level deck reconstruction involves a complete demolition and rebuild. The Commission felt that the deck renovation project could be successfully completed without increasing the existing 48.5% structure coverage. During variance discussion, the Commission agreed that several design modifications are available to avoid variance, noting in particular: (i) if 2 ft. of deck at the south end was removed and placed at the north end; or (ii) a sliding door was off-set or changed to a swing door. As to design review, the Commission supported the proposed conversion of lower level non-habitable space into habitable space in accordance with Section 17.23.3 of the City Code, noting that this conversion will not increase the potential density of the existing residence since it involves no addition of bedrooms and does not change the existing footprint/massing of the home. However, the Commission preferred that an alternative deck renovation design be submitted to: (1) reflect that the proposed deck expansions will not result in the property exceeding its existing 48.5% structure coverage; (2) the proposed glass panel railing at the upper level deck be redesigned to reflect a railing more architecturally compatible and consistent with railings on the middle and lower level decks; and (3) provide an overall deck plan that creates a better proportional relationship between the decks and the house. The Commission, with the exception of Commissioner Henn, voiced its opposition to the proposed glass panel railing at the top level deck, citing concerns over architectural inconsistency and privacy intrusions for both the applicant and his downhill Pala Avenue neighbors.

Resolution 233-DR-12

WHEREAS, Mr. Jason Chung is requesting permission to convert non-habitable space into habitable space at the lowest level of the house located at 211 Scenic Avenue, Piedmont, California, which construction requires design review; and

WHEREAS, after reviewing the application, plans and any and all testimony and documentation submitted in connection with such application, and after having visited subject property, the Piedmont Planning Commission finds that the project is categorically exempt under the California Environmental Quality Act, pursuant to Section 15301, Class 1(e) and the proposal conforms with the criteria and standards of Section 17.20.9 of the Piedmont City Code:

1. The exterior design elements related to the non-habitable space conversion, including proposed window and door additions, are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development in that such space conversion is permitted under Section 17.22.3 of the City Code, it does not require variance nor will it affect or change the home's existing mass or aesthetics.
2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because the proposed changes to window and door configurations are not materially substantive and will have no adverse impact on adjacent properties.

3. The project complies with Design Review Guidelines II-1, II-2, II-3, II-7

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Mr. Chung for the conversion of existing lower level, non-habitable space into habitable space at 211 Scenic Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Construction Management Plan.** The Property Owner shall develop a comprehensive Construction Management Plan. The Construction Management Plan shall address noise, vibrations, traffic control, parking, debris removal, dust control, sanitary facilities, and other potential construction impacts, as well as other details involving the means and methods of completing the Project, including the construction route. The City Building Official has the authority to require modifications and amendments to the Construction Management Plan as deemed necessary throughout the course of the Project and until the Final Inspection.

- a. Stormwater BMPs for Construction. Property Owner shall implement (1) stormwater treatment Best Management Practices (BMPs) and (2) Bay Area Stormwater Management Agencies Association's "Start at the Source" criteria for stormwater quality protection. City staff may impose additional requirements involving the prevention of storm water pollution during construction and permanent drainage, erosion and sediment control. These items will be reviewed as part of the applicant's Construction Management Plan.

2. **C&D Compliance.** Compliance with Chapter 9 Article III of the Municipal Code, which governs the recycling of construction and demolition debris, is required for all phases of this project.

3. **Contractor's General Liability Insurance.** To ensure that the contractor doing work in the City will be responsible for damages caused by the work to City property or to neighboring property, the Property Owner shall require all contractors and subcontractors performing work on the Project to maintain General Liability Insurance for protection from claims for damages because of bodily injury, including death, and claims for damages, other than to the contractor's work itself, to property which may arise out of or result from the contractor's operations. Such insurance shall be written for not less than \$1,000,000 per occurrence. The insurance shall include builder's risk. The insurance shall include an endorsement requiring 30 days' notice to the City if the insurance is cancelled or changed, and Property Owner shall immediately arrange for substitute insurance coverage.

As an alternative to requiring each subcontractor to obtain General Liability Insurance, the Property Owner may require the General Contractor to obtain an endorsement to cover his or her subcontractors.

If the Property Owner does not have a general contractor, the Property Owner shall maintain property insurance, including builder's risk and coverage for subcontractors, which is substantially equivalent to the contractor's requirement of this section.

4. **Defense of Legal Challenges.** If there is a third party administrative, legal or equitable action challenging the project approvals, including CEQA issues, the Property Owner shall defend and indemnify the City against any liability, fees and costs arising out of the defense, including the costs of City's own counsel. If such an action is filed, the Property Owner and City shall then enter into an agreement regarding selection of counsel and other provisions related to the defense. For this purpose, "City" includes the City and its elected and appointed officials, agents, officers and employees.

5. **Modifications to Conditions.** Any insurance or security requirement, or related Condition of Approval, may be implemented and, if necessary modified, in a reasonable manner with the joint agreement of the Director of Public Works and the City Attorney, consistent with the intent of the condition.

RESOLVED FURTHER, that the approval of the Planning Commission/City Council and any conditions of that approval shall not extend to any particulars set forth in the documents submitted for the project which are inconsistent with or in violation of any applicable law, including but not limited to Chapters 5 and 17 of the City Code, nor does the approval extend to matters not set forth, or inadequately represented, in submitted documents (whether or not consistent with applicable law). The City reserves the right to require compliance with applicable laws and to attach conditions after initial approval is given, if noncompliance is discovered or additional conditions are considered necessary and appropriate in light of Commission/Council findings. Moved by Kellogg, Seconded by Ode

Ayes: Chase, Henn, Kellogg, Zhang, Ode

Noes: None

Absent: Robertson

Resolution 233-DR/V-12

WHEREAS, Mr. Jason Chung is requesting permission to expand the three existing rear decks in a northerly direction; replace the lower railings with wood railings and the upper railings with glass panels; make window and door modifications; and add exterior lighting located at 211 Scenic Avenue, Piedmont, California, which construction requires variance and design review; and

WHEREAS, a variance from the requirements of Chapter 17 of the Piedmont City Code is necessary in order to exceed the structure coverage limit of the lot; and

WHEREAS, after reviewing the application, plans and any and all testimony and documentation submitted in connection with such application, and after having visited subject property, the Piedmont Planning Commission makes the following findings:

1. The underlying lot and existing improvements do not present unusual physical circumstances because of which strictly applying the terms of this chapter would keep the property from being used in the same manner as other properties in the zone which conform to the zoning requirements.

2. The variance is not compatible with the immediately surrounding neighborhood and the public welfare because proposed deck reconstruction can be accomplished without variance.
3. Accomplishing the improvement without a variance would not cause unreasonable hardship in planning, design, or construction because the proposed deck project can be redesigned so as to be constructed without the need for variance.
4. The proposal fails to conform with the criteria and standards of Section 17.20.9 of the Piedmont City Code.
5. The exterior design elements are not aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development because it results in a considerable addition of mass and bulk to the overall structure of the house. The position and materials proposed for the deck railings are not consistent in terms of color, materials, texture and detailing with each other or the existing home. The proposed glass railing at the top level deck is not consistent in terms of architectural style in that the existing decks are structured with wood posts, wood knee-bracing, all wood construction. While wood railings would be the more preferable style for all three decks, it is not necessary that these railings be solid and opaque for all of their 42 inch height requirement. The applicant has options for satisfying the building code's requirement for 42 in. high deck railings with his desire to enhance the view potential of his property while also respecting neighbor privacy, light and view as well as not detracting from the aesthetic quality of his property.
6. The proposed upper level expansion has not been designed in a way that reasonably minimizes view and light impacts on neighboring properties because the proposed deck at the top level with glass railings has a negative impact on light, view and privacy for both the applicant and his neighbors. The applicant would be able to see through the glass railing into habitable spaces of neighboring properties, particularly those on Pala Avenue and Pala Avenue residents would be able to look up and into the living areas of the applicant's property.
7. The project fails to comply with Design Review Guidelines II-2, II-3(a) & (b), II-5, II-5(a) and II-7.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission denies, without prejudice, the variance and design review application of Mr. Chung for deck-related construction at 211 Scenic Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City

Moved by Kellogg, Seconded by Zhang

Ayes: Chase, Henn, Kellogg, Zhang, Ode

Noes: None

Absent: Robertson

Variance
290 Scenic Avenue

Mr. and Mrs. Ahmad Mohazab are requesting variance to reduce the interior size of the existing non-conforming garage in order to install structural bracing to provide support for the construction of a previously approved second story. The requested variance is from

Section 17.16.6 to allow the two parking spaces within the existing garage to be reduced in size to 7 ft. 9-1/4 in. by 18 ft. 4in. in lieu of the code required minimum dimension of 9 ft. by 20 ft. A related application was approved by the Commission on November 14, 2011.

Written notice was provided to neighbors. **No response forms** were received.

Public testimony was received from:

Ahmad Mohazab, Owner and Project Architect, stated that he only recently discovered that the existing garage walls are insufficient to support the addition of the second story second unit approved last November because they have no rebar re-enforcement. Hence the current application is intended to add bracing supports to these garage walls. While the interior dimensions of the existing garage will be reduced by 6 in. in width and 3 in. in depth, the garage will still be able to accommodate the parking of two vehicles.

The Commission discussed the situation with Mr. Mohazab, voicing concern that a 6 in. reduction in an already substandard garage width may preclude the ability to open car doors to afford vehicle ingress/egress inside the garage. Therefore, the Commission suggested that the proposed structural bracing on the east side be incorporated within the east-side framed wall, thereby resulting in only a 3 in. reduction in overall garage width. It was noted that since the east side framed garage wall is between 8 and 10 inches thick, there is room to put the structural bracing supports within this wall. Commissioner Kellogg further supported cutting into the west and north side concrete retaining walls to add re-enforced columns and beams as structural supports, thereby eliminating any reduction in the existing interior dimension of the garage. He felt that any reduction in the garage's already substandard interior dimensions would in effect preclude this garage from being a fully functional 2-car garage. Mr. Mohazab supported the east-wall support solution but voiced concern that cutting into the existing west and north side concrete retaining walls could lead to future cracking and water seepage problems as well as result in the loss of the garage's existing mature, vegetation screening.

Resolution 308-V-12

WHEREAS, Mr. and Mrs. Ahmad Mohazab are requesting permission to reduce the interior size of the existing non-conforming garage in order to install structural bracing to provide support for the construction of a previously approved second story located at 290 Scenic Avenue, Piedmont, California, which construction requires variance; and

WHEREAS, a variance from the requirements of Chapter 17 of the Piedmont City Code is necessary in order to reduce the size of garage parking spaces; and

WHEREAS, after reviewing the application, plans and any and all testimony and documentation submitted in connection with such application, and after having visited subject property, the Piedmont Planning Commission makes the following findings:

1. The project is categorically exempt under the California Environmental Quality Act, pursuant to Section 15301, Class 1(e)
2. The underlying lot and existing improvements present unusual physical circumstances, including but not limited to the fact that the proposed structural bracing is being added to an existing garage of a fixed size and it would be unreasonable/impractical to demolish and replace this structure in order to increase its width for this proposed project. Because of these circumstances, strictly applying the terms of this chapter would keep the property from being used in the same manner as other properties in the zone which conform to the zoning requirements.
3. The variance is compatible with the immediately surrounding neighborhood and the public welfare because there are many garages in Piedmont that have smaller-sized garage parking spaces than the City Code's current 9 ft. standard width. The proposed project will not affect the exterior appearance of the garage.
4. Accomplishing the improvement without a variance would cause unreasonable hardship in planning, design, or construction because it would require that the existing garage be demolished which could render the previous approval of a second unit atop this garage invalid as well as necessitate a front yard setback variance to construct a conforming, 2-car garage on the property.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance application of Mr. and Mrs. Mohazab for the above variance at 290 Scenic Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Defense of Legal Challenges.** If there is a third party administrative, legal or equitable action challenging the project approvals, including CEQA issues, the Property Owner shall defend and indemnify the City against any liability, fees and costs arising out of the defense, including the costs of City's own counsel. If such an action is filed, the Property Owner and City shall then enter into an agreement regarding selection of counsel and other provisions related to the defense. For this purpose, "City" includes the City and its elected and appointed officials, agents, officers and employees.
2. **Structural Bracing.** The proposed structural cross-bracing on the east side of the garage shall be incorporated inside the east framed garage wall. There shall be no reduction in the currently existing parking space width dimension along the east side of the garage.

RESOLVED FURTHER, that the approval of the Planning Commission/City Council and any conditions of that approval shall not extend to any particulars set forth in the documents submitted for the project which are inconsistent with or in violation of any applicable law, including but not limited to Chapters 5 and 17 of the City Code, nor does the approval extend to matters not set forth, or inadequately

represented, in submitted documents (whether or not consistent with applicable law). The City reserves the right to require compliance with applicable laws and to attach conditions after initial approval is given, if noncompliance is discovered or additional conditions are considered necessary and appropriate in light of Commission/Council findings.

Moved by Henn, Seconded by Ode

Ayes: Chase, Henn, Zhang, Ode

Noes: Kellogg

Absent: Robertson

ADJOURNMENT

There being no further business, Chairman Chase adjourned the meeting at 7:30 p.m.